

## **401 KAR 49:100. Waste Tire Trust Fund Grant Program.**

RELATES TO: KRS 224.43, 224.50

STATUTORY AUTHORITY: KRS 224.10-100, 224.50-820, 224.50-834

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.50-820 establishes the waste tire trust fund to be used for programs to eliminate existing and prevent future accumulations of waste tire piles. KRS 224.50-828 allows the cabinet to enter into agreements for the removal of existing waste tire piles, or for the removal of waste tires collected by the local government through a local community sponsored program. KRS 224.43-340 requires each county to be responsible for implementing the solid waste management plan which is required to include an inventory and description of all existing solid waste management facilities and activities, and identification and assessment of current and future solid waste management problems faced by the area. For this reason, grants should be awarded to the cities, counties, or urban-county governments to be used to implement a waste tire removal and control program pursuant to KRS 224.50-824 and 224.50-828. Pursuant to KRS 224.43-010, it is the policy of the cabinet to encourage a regional approach to solid waste management. This administrative regulation establishes eligibility requirements, application requirements, and prioritization criteria to be used by the cabinet to administer this Program.

Section 1. General Eligibility Requirements. (1) Eligible applicants for financial assistance from the Waste Tire Trust Fund Grant Program shall be any city, county or urban-county government.

(2) The proposed project cost estimates shall be reasonable and attainable given the geographic location of the project, current pricing trends, required professional services, and any other factors that may have a bearing on the project.

(3) The applicant shall have an approved area solid waste management plan or be a part of an approved area solid waste management plan.

(4) The application shall be properly completed and accurate.

(5) If the project is to be performed by someone other than the applicant, that person shall not have been convicted by final judgement of any felony within five (5) years preceding the filing of the application; or been adjudged by an administrative agency or a court to have violated the environmental protection laws or administrative regulations of the United States, the Commonwealth, or any other state, and the cabinet determines that the conviction or adjudication is sufficiently probative of the applicant's inability or unwillingness to operate the facility in a lawful manner. The applicant shall be responsible for assuring compliance with KRS Chapter 335B, regarding the public employment qualifications of the person performing the project.

(6)(a) No more than seventy-five (75) percent of the cost of a project may be funded by a grant from the waste tire trust fund.

(b) Each applicant shall provide other funding equal to at least twenty-five (25) percent of the cost of a project which may consist of a local contribution, funds derived from grants or loans from other sources, or in-kind services, if the value of such services or property can be documented to the cabinet's satisfaction.

Section 2. Application Submission Requirements and Review Process. (1) The application form, DEP 0043, entitled "Waste Tire Trust Fund Application for Grant Assistance" (October 1992) and its requirements are hereby incorporated by reference. Application forms may be obtained from the Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky, 40601, during the normal working hours of 8 a.m. through 4:30 p.m., Monday through Friday. The applicant shall submit the original and three (3) copies of the completed application form to the Division of Waste Management.

(2)(a) The cabinet shall review and prioritize applications in cycles. The first application cycle shall

begin on May 1, 1993. The cabinet shall accept applications from May 1, 1993 through COB on June 30, 1993, at which time all applications received during this period shall be reviewed and prioritized. Subsequent application cycles shall be annual, beginning on August 1 and ending COB August 31, in each year that the balance in the waste tire trust fund on June 30 exceeds \$335,000.

(b) The initial and subsequent cycles shall be advertised in public notice, which shall be published pursuant to KRS 424.130 in major newspapers with statewide circulation and distributed to all county judge executives and mayors of first and second class cities, as well as any other parties that have notified the division of an interest in submitting an application. The public notice for the initial cycle shall be published no earlier than April 10, 1993 and no later than April 24, 1993. For years in which subsequent cycles will be held, the public notice shall be published no earlier than July 11 and no later than July 25.

Section 3. Criteria for Prioritizing Project Applications. (1) The cabinet shall prioritize all acceptable applications received for each application cycle using a scoring system which measures the degree to which the proposed project:

- (a) Addresses a significant environmental hazard;
  - (b) Assists owners of less than 500 waste tires with the cost of removal;
  - (c) Promotes reuse and recycling efforts of waste tires or waste tire materials;
  - (d) Complies with the goals and objectives of KRS 224.50-824 through 224.50-832;
  - (e) Efficiently serves the area geographically and by population;
  - (f) Is consistent with the objectives of the approved area solid waste management plan;
  - (g) Is needed within the proposed service area;
  - (h) Complies with the implementation schedule set forth in the area solid waste management plan;
  - (i) Is a regional project; and
  - (j) Is financially viable. The financial review shall consider, but not be limited to the following:
    - 1. Validity of the assumptions used to project any revenues pledged to the project;
    - 2. Assurance that revenues pledged to the project will be collected;
    - 3. Security of all other sources proposed to fund the project costs; and
    - 4. Reasonableness of the projections for operation and maintenance cost of the project.
- (2) Projects that are proposed with the greatest percentage of matching funds shall receive a higher priority after the review of criteria in subsection (1) of this section.

Section 4. Conditions for Assistance from the Waste Tire Trust Fund. (1) The applicant shall execute a grant agreement with the cabinet that sets forth the terms and conditions for completion of the project and actions thereafter. The grant agreement shall include a pledge by the grant recipient to use revenues generated by the project to further the project or to support other activities consistent with the approved area solid waste management plan. No monies shall be released to the applicant until the grant agreement is executed.

(2) All recipients of grants from the waste tire trust fund shall submit quarterly reports to the cabinet using the form DEP 0043A entitled, "Waste Tire Trust Fund Grant Report" (October 1992). The form and its requirements are hereby incorporated by reference. Copies may be obtained from the cabinet's Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky, 40601, during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday.

(3) The applicant shall be responsible for the continued operation and maintenance of any facility or other project funded by the cabinet if applicable. If the project is to be operated, maintained, or managed by a third party under contract, management agreement, or written lease, the applicant shall continue to be responsible for compliance with the requirements of this section.

(4) Upon determination of the actual bid cost of a project, the funding awarded by the cabinet may

be increased by up to five (5) percent of the original funding commitment.

(5) Funds shall be released to the applicant on a monthly basis for actual project costs incurred. An itemized list of expenditures with copies of invoices or other supporting documentation shall be submitted to the cabinet for payment.

(6) The applicant, upon completion of the project funded by the waste tire trust fund, shall comply with KRS Chapters 109 and 224 and all administrative regulations pertaining to solid waste management.

(7) If applicable, the applicant shall retain ownership of the facilities and equipment financed by the waste tire trust fund during the useful life of the facility. (19 Ky.R. 1247; Am. 1580; 2029; eff. 3-12-93; recodified from 401 KAR 49:230, 11-8-96; recodified from 401 KAR 49:070, 7-13-15; TAm eff. 7-8-2016.)